

State of California
Regional Water Quality Control Board
San Diego Region

SUPPLEMENTAL
EXECUTIVE OFFICER SUMMARY REPORT
November 18, 2015

ITEM: 11

SUBJECT: NPDES Permit Amendment: An Order to amend Order No. R9-2013-0001, as Amended by Order No. R9-2015-0001, NPDES No. CAS0109266, *National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region* (Regional MS4 Permit). The amendment includes, but is not limited to, incorporation of the County of Riverside, the Cities of Murrieta, Temecula, and Wildomar, and the Riverside County Flood Control and Water Conservation District as Copermittees under the Regional MS4 Permit. (Tentative Order No. R9-2015-0100) (*Wayne Chiu and Christina Arias*)

PURPOSE: *To consider adoption of Tentative Order No. R9-2015-0100 to amend Order No. R9-2013-0001, as amended by Order No. R9-2015-0001* (**Supporting Document No. 1**).

RECOMMENDATION: Adoption of Tentative Order No. R9-2015-0100 (**Supporting Document No. 1**) with revised errata (**Supporting Document No. 13**) is recommended.

DISCUSSION: This Executive Officer Summary Report (EOSR) supplements the EOSR provided for Item 11 of the November 18, 2015 San Diego Water Board meeting.

Supporting Materials from Environmental Groups

Subsequent to the distribution of the agenda package, San Diego Coastkeeper contacted the San Diego Water Board with a request to provide supporting materials that were referenced but inadvertently omitted as part of the September 10, 2015 comment letter submitted by the Environmental Groups (San Diego Coastkeeper, Surfrider Foundation San Diego Chapter, and Coastal Environmental Rights Foundation). The supporting materials include the *Guidelines for Conducting Reasonable Assurance Analysis*

in a Watershed Management Program, Including Enhanced Watershed Management Program and accompanying presentation issued by the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board). The supporting materials are provided as **Supporting Document No. 9**.

Additional Supporting Materials Response to Comment B3c-4

The response to comment B3c-4 in the Responses to Comments Report (**Supporting Document No. 4**) addresses the request from the Copermitees to include compliance with receiving water prohibitions and limitations during the alternative compliance pathway preparation process. In the response, the San Diego Water Board declined to include compliance with receiving water prohibitions and limitations during the alternative compliance pathway preparation process based in part on comments the USEPA submitted to the State Water Resources Control Board (State Water Board) and other Regional Water Quality Control Boards.

The response to comment B3c-4 included links to USEPA letters submitted to the Los Angeles Water Board on January 15, 2014 regarding their City of Long Beach MS4 Permit, the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) on June 20, 2014 regarding their Orange County MS4 Permit, and the State Water Board on January 20, 2015 regarding the draft of State Water Board Order WQ 2015-0075. San Diego Coastkeeper requested that the response to comment B3c-4 also include a link to a USEPA letter submitted to the Los Angeles Water Board on July 23, 2012 regarding the Los Angeles County MS4 Permit. A link to the July 23, 2012, USEPA letter has been added in response to comment B3c-4. For ease of reference, copies of these four USEPA comment letters are provided as **Supporting Document No. 10**.

Late Comment Letter

The San Diego Water Board also received a comment letter on November 3, 2015 from Safari Highlands Ranch. The comment letter was submitted more than six weeks after the public comment period closing date of September 14, 2015. The comment letter asserts that the requirement in the Regional MS4 Permit for Priority Development Projects to avoid coarse sediment yield areas results in a “total taking of

the land value” from their Safari Highlands Ranch development project.

Though the comment letter was submitted well after the close of the public comment period for the Tentative Order, the letter is being provided to the San Diego Water Board because there is sufficient time for the Board and interested persons to consider the letter in advance of the hearing such that no party is prejudiced by its late submittal. The November 3, 2015 Safari Highlands Ranch comment letter is provided as **Supporting Document No. 11**. The Responses to Comments Report (**Supporting Document No. 4**) has been revised to include a response to this comment.

Revised Responses to Comments and Errata Sheet

As a result of the request from San Diego Coastkeeper and the late comment letter from Safari Highlands Ranch, revisions to the Responses to Comments Report were made.

The response to comment B3c-4 was revised to include a link to the USEPA comment letter submitted to the Los Angeles Water Board on July 23, 2012. Comment E3c2-3 and a response to the comment were added to the Response to Comments Report to respond to the late comment letter from Safari Highlands Ranch. In addition, the San Diego Water Board identified and corrected typographical errors in the responses to comments B3c-7 and B3c-9. The revision to the response to comment B3c-9 also required a revision to the Errata Sheet. The revised Responses to Comments Report is provided as **Supporting Document No. 12**, and the revised Errata Sheet is provided as **Supporting Document No. 13**. The revisions in the revised Responses to Comments Report and revised Errata Sheet are highlighted in **yellow**.

LEGAL CONCERNS:

Responses to legal comments received are included in the revised Response to Comments Report under comments Gnl-10, B3c-3, B3c-5, B3c-7 through B3c-10, and E3c2-3 in **Supporting Document No. 12**.

**SUPPORTING
DOCUMENTS:**

Supporting Document Nos. 1 through 8 previously provided

9. Supporting materials for September 10, 2015 Environmental Groups comment letter
10. USEPA comment letters submitted to:
 - a. Los Angeles Water Board on July 23, 2012,
 - b. Los Angeles Water Board on January 15, 2014,
 - c. Santa Ana Water Board on June 20, 2014, and
 - d. State Water Board on January 20, 2015
11. November 3, 2015 Safari Highlands Ranch comment letter
12. Revised San Diego Water Board Response to Comments Report
13. Revised Errata Sheet listing additional changes to the Tentative Order and Attachments